



## **CASE REPORT**

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|-------------------------------|----------------------------|
| 1. Complaint reference number | 478/09                     |
| 2. Advertiser                 | Ford Motor Co              |
| 3. Product                    | Vehicle                    |
| 4. Type of advertisement      | TV                         |
| 5. Nature of complaint        | FCAI - Other               |
| 6. Date of determination      | Wednesday, 14 October 2009 |
| 7. DETERMINATION              | Dismissed                  |

## **DESCRIPTION OF THE ADVERTISEMENT**

This TVC shows two drivers who decide to see which driver can make the furthest distance on one tank of fuel. One of the drivers is driving a vehicle that uses diesel fuel and the other conventional petrol. One of the driver's breaks down at a red-light and asks a nearby window-washing person who is seen wandering through the traffic. The driver asks him for assistance and the window-washer helps him out. The next scene shows the window-washer man in the front driver's seat and the driver pushing the car to the end.

## **THE COMPLAINT**

A sample of comments which the complainant/s made regarding this advertisement included the following:

*RS09/323*

*I write to lodge a complaint about an ad that violates the FCAI Voluntary Code of Practice for Motor Vehicle Advertising.*

*The Code seeks to support road safety efforts by providing "guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety".*

*The Ford Focus Hatchback TVC which breaches this Code is currently being aired. This ad shows a driver in red Corolla stopped at the green light at an intersection whilst waving to a person wandering through the traffic offering to wash windscreens.*

*We believe that this ad is in direct conflict with accepted road safety messages because it depicts a breach of NSW Road Rules 2008, Part 14, Division 1, Rule 236 Pedestrians not to cause a traffic hazard or obstruction.*

*I therefore ask the ASB to demand the immediate and permanent withdrawal of the Ford Focus Hatchback ad referred to above, and to discourage similar depictions of this behaviour in ads.*

*In the event that these ads are not currently being used a determination is requested so that similar ads can be discouraged in the future.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*The Focus TVC conveys a fuel economy message by depicting a Toyota Corolla stopped at traffic lights after running out of petrol and a "Good Samaritan" window washer coming to assist.*

*At the outset, I would like to emphasise that Ford Australia takes seriously its commitment to the*

*AANA Code of Ethics and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and we are very aware of the potential impact that our advertising may have on members of the public.*

*All of our advertising, including the Focus TVC, is carefully reviewed in that context. In this case, we do not believe that the scenario depicted in the Focus TVC is in breach of the AANA Code of Ethics or the FCAI Code. You have referred to and extracted a complaint in your email dated 29 September 2009 and you have stated that the complaint raises issues under section 2 of the AANA Code of Ethics. Given that the Focus TVC is an advertisement for a motor vehicle, the FCAI Code applies. We note that the complaint alleges that the Focus TVC depicts unsafe driving in breach of provision 2(a) of the FCAI Code. A breach of provision 2(a) will occur if the advertisement in question portrays "Unsafe driving, including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation ...".*

*We strongly disagree with the allegation that the Focus TVC depicts unsafe driving and therefore breaches provision 2(a) of the FCAI Code. Further, the Focus TVC does not portray any of the vehicles in the advertisement engaging in any driving practices or other actions which would breach a law relating to road safety or traffic regulation and we therefore contend that the Focus TVC complies with all relevant provisions of the FCAI Code and is consistent with the objectives and guidelines of the FCAI Code as expressed in the Explanatory Notes. We consider that it is important to highlight the following points:*

- The complaint states that the Focus TVC depicts a "person wandering through the traffic offering to wash windscreens". The section of the Focus TVC referred to in the complaint depicts a Toyota Corolla easing to a stop at an intersection regulated by traffic lights. The relevant traffic lights are shown from the rear only, however, from the fact that all vehicles approaching the traffic lights come to a stop, it can be assumed that the traffic lights are red and have stopped the relevant passage of traffic. The Good Samaritan does not enter the intersection until the traffic lights have turned red for approaching vehicles and the visible vehicles are stationary. It transpires that the Toyota driver is unable to start his vehicle (because he has run out of petrol) and he calls the Good Samaritan over to assist. Simultaneous with the apparent completion of the traffic light sequence, the Good Samaritan moves towards the Toyota to assist to move the Toyota off of the road and into a car park. The Good Samaritan assists by steering the Toyota as the Toyota driver pushes the vehicle. The depiction in the Focus TVC does not show the Good Samaritan in a dangerous situation nor causing an obstruction or hazard to traffic.*
- The depiction of the Good Samaritan assisting the Toyota driver is deliberate in its humour and exaggeration. The purpose of the Good Samaritan in the Focus TVC is to assist the Toyota driver to move his vehicle to safety. His involvement is not the focus of the TVC, it is merely incidental, used as a device to portray the fact that the Toyota has run out of petrol. The Good Samaritan is shown on the road for approximately 6 seconds and, as mentioned above, he is not shown in a dangerous situation or causing a traffic hazard or obstructing the flow of traffic. Indeed, the flow of traffic has been impeded by the Toyota which is shown out of petrol at the traffic lights.*
- The Focus TVC was filmed under controlled conditions with police present at all times. Safety officers were also on set during the shooting of the advertisement.*
- At no point did CAD advise of any concerns regarding the depiction of the Good Samaritan window washer. The TV script, pre-production storyboard and final edit were also approved by legal counsel.*

*We strongly believe that the Focus TVC does not breach the FCAI Code or the AANA Code of Ethics and that all necessary safety precautions were taken in the production of the Focus TVC.*

*I trust that this correspondence adequately addresses the concerns raised in the complaint referenced.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section

2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement depicted people in breach of road rule 236 - pedestrians not to cause a traffic hazard or obstruction and that such behaviour should not be encouraged.

The Board noted the advertiser's response and reviewed the advertisement.

The Board considered whether the advertisement was in breach of section 2(a) of the FCAI Code. Section 2(a) and 2(c) of the FCAI Code states:

*"Advertisements should ensure that advertisements for motor vehicles do not portray any of the following:*

*(a) Unsafe driving, including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement".*

The Board noted that one of the car's in the advertisement had broken down and the driver had sought assistance and had pushed the car which was in control by the good Samaritan window-washer and that this did not breach section 2(a) of the Code as there was no unsafe driving.

The Board noted that the presence of the window-washing man on the road, was not interfering with the free movement of the traffic through the intersection and instead, the window-washer man had been shown to move off the road at the time when the lights turned green.

The Board considered this specific depiction and image was not unsafe or disruptive to traffic, but made no comment on the actions of window washing people generally. Finding that the advertisement was not in breach of the FCAI Code or any other section of the AANA Code of Ethics, dismissed the complaint.